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May 4, 2023

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: United States v. Derek Murphy
21 Cr. 280 (AKH)

Dear Judge Hellerstein:

On April 24, 2023, this Court sentenced Derek Murphy in the above referenced matter. Prior to sentencing Mr. Murphy, the court explicitly rejected certain statements advanced by the probation officer in the presentence report (PSR) in paragraphs 58-63, 88 and 92. I therefore write to request that the court order that the PSR be amended to conform with the Court's findings at the sentencing of Mr. Murphy on April 24, 2023.

I respectfully request that Paragraphs 58-63 be excised from the PSR, as the Court rejected the basis advanced by probation for the inclusion of Base Offense Level points in those paragraphs. The Court did not assess Base Offense Level pursuant to those paragraphs at the sentencing hearing.

I also request that paragraph 88, and 92, be excised from the PSR as the court also rejected the basis advocated in the Probation report for the assessment of Criminal History points in those paragraphs. The Court did not assess Criminal History points pursuant to these paragraphs.

Should the Court have any questions. I can be reached at (212) 966 3970.

Respectfully submitted,
/s/
Donald D. duBoulay

cc: Alexandra Rothman, AUSA (via ECF)
James Ligtenberg, AUSA (via ECF)

Denied as to §§ 58-63 and 92. These are opinions of probation. Granted as to §§ 88, 89 because they are incorrect statements of fact.
5-8-23

Alvin K. Hellerstein